

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JULIA JENSEN,

O R D E R
Civ. No. 07-6006-AA

Plaintiff,

vs.

OREGON DEPARTMENT OF
TRANSPORTATION, an Agency of the
State of Oregon; BLAIR JOHNSON;
and MICHAEL B. MARSH,

Defendants.

AIKEN, Judge:

Defendants' Partial Motion to Dismiss (doc. 17) pursuant to Fed. R. Civ. P. 12(b)(6) is granted. Defendants are correct that this court is bound by the Ninth Circuit Court of Appeal's ruling in Engquist v. Oregon Department of Agriculture, 478 F.3d 985 (9th Cir. 2007), that a claim for discrimination on a "Class of One" Equal Protection theory is not recognized in this circuit. That ruling is binding unless and until Engquist is limited or overruled by the full Ninth Circuit Court of Appeals.

Therefore, plaintiff's Claim One, Count Three is dismissed with prejudice.

IT IS SO ORDERED.

1 Dated this 10 day of August 2007.

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5 /s/ Ann Aiken
6 Ann Aiken
7 United States District Judge
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